

**CARMEN PARDO DE TAVERA Y LOPEZ MANZANO, PETITIONER, VS.
DEMETRIO B. ENCARNACION; HON. JOSE B. JIMENEZ, AS JUDGE,
COURT OF FIRST INSTANCE OF CAVITE, BRANCH III; HON.
WALFRIDO DE ...**

G.R. Nos. L-28170 & L-28200. February 17, 1968

Ponente: ANGELES, J.

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ANGELES, J.:

Petitioner is the owner of a parcel of land situated in Quezon City, known as Lot No. 8-A, Sub-block No. 13-F, of the Subdivision Plan Psd--1107, covered by Transfer Certificate of Title No. 18304 (18833) of the Register of Deeds of Quezon City. On February 18, 1954, she leased the said lot to herein respondent Demetrio B. Encarnacion, for a period of twelve (12) years, at a monthly rental of P0.60 per square meter, or P120.00 monthly.

The contract of lease above referred to stipulates that -

"2. a - The duration of this lease shall be for a period of Twelve (12) years counted from the date hereof, which may be renewed for another period of Eight (8) years under such rental, terms and conditions which the Lessor and the Lessee may then agree upon, and in case the Lessee would desire such re-newal, he shall so notify the Lessor in writing at least Sixty (60) days before the expiration of the Twelve (12) years period hereinabove stipulated, and the parties will have to reach an agreement regarding the renewal at least thirty (30) days prior to the date of expiration of the said Twelve (12) years period; otherwise, the lease shall not be renewed."

At the end of the stipulated 12-year lease period, there was no agreement reached between the parties as to the renewal of the contract, although it appears from the record that before the expiration of the period of the lease, the parties tried to negotiate for a renewal, as follows:

On September 25, 1965, the lessee notified the lessor of his desire to avail of the renewal provision of their lease contract, but requesting for a reduction of the rental to P80.00 a month. On October 1, 1965, the lessor informed the lessee that "there is a prospect for the lease of the lot in question for ten (10) years period from February 19, 1966, at P500.00 monthly rental, and all im-provements to be introduced by the lessee will be for me at the expiration of the period of the lease x x x." On October 11, 1965, the lessee reiterated in writing his desire to renew the contract, and mentioning justifications for a reduced rental. By a letter of October 22, 1965, the lessor informed the lessee that if the lease would be renewed, it would be on an increased rental taking into account the decrease in the purchasing power of the peso, the increase of business opportunities in the vici-nity, the increase of rentals of buildings in simi-lar locations, and increase in real estate taxes. On January 17, 1966, the lessor wrote another letter stating that "unless we could agree as to the amount of the rental for the renewal of the lease of the lot to you, the contract of lease shall automatically expire on February 18, 1966, and hence, after that date you should vacate the premises and deliver possession thereof to me," and that "I am ready and willing to have the lease of the lot leased to you renewed for another period of eight (8) years from February 19, 1966, x x x for double the present rental, or TWO HUNDRED FORTY PESOS (P240.00) a month which rental is even less than

the rental I expect to get from a-nother x x x". Still on January 25, 1966, the les-sor wrote again to the lessee informing him that as per survey made of the premises, the total area of the lot occupied by the lessee is 347 square meters, so that "my letter to you of January 17, 1966 x x x is hereby modified in the sense that if you want to continue with the lease it must be under terms and conditions which must be agreed upon on or before Feb-ruary 18, 1966 taking into account the area of the lot. x x x."

On February 17, 1966, one day before the expira-tion date of the aforesaid contract of lease, the lessee filed a complaint in the Court of First In-stance of Cavite (Civil Case N-872), for specific performance with damages, seeking to obtain a renewal of the lease at a reduced rental of P80.00 a month. The lessor, on March 1, 1966, instead of answering the complaint, countered with a "Special Appearance Attacking Jurisdiction and Venue with Consequent Dis-missal of the Case."

A few days after the expiration of the contract of lease, or on March 10, 1966, the lessor instituted unlawful detainer-ejectment proceedings against the lessee in the City Court of Quezon City. The lessee moved to dismiss the complaint on the ground of the pendency of another action between the same parties for the same cause, but said court declared itself with jurisdiction over the same. In his answer, the lessee raised the same issues which he brought out in his complaint filed with the Court of First Instance of Cavite. After the answer, the case (City Court, Quezon City) was set for trial se-veral times but postponed at the instance of the lessee.

Finally, on January 14, 1967, the lessee filed with the Court of First Instance of Rizal a petition for certiorari and prohibition with injunction (Civil Case No. Q-10710) seeking a declaration that the City Court of Quezon City has no jurisdiction to try the ejectment case. On February 10, 1967, the respondent judge of the Court of First Instance of Rizal is-sued an order, as prayed for, advising the parties to maintain the status quo pending the resolution of the aforesaid petition for certiorari and prohibition. By virtue of this order, the city court refrained from proceeding with the trial of the ejectment case.

On May 26, 1967, the Court of First Instance of Cavite issued an order declaring itself with jurisdiction over the case for specific performance with damages filed by the lessee on February 17, 1966.

The lessor, Carmen Pardo de Tavera, has brought the case directly to this Court on petition: (a) for certiorari, to annul the order of the respondent judge of the Court of First Instance of Cavite, declaring itself with jurisdiction to take cognizance of Civil Case No. N-872, and to likewise annul the or-ders of the respondent judge of the Court of First Instance of Quezon City in its Civil Case No. Q-10710 restraining the Quezon City Court from trying the ejectment case and denying the lessor's motion to dismiss; (b) for prohibition, to restrain the respond-ents judges of said Courts of First Instance from fur-ther proceeding with the aforesaid cases before them; and (c) for mandamus, to order the respondent judge of the Quezon City court to proceed with the hearing of the unlawful detainer-ejectment case pending there-in until its final termination.

We find the petition to be meritorious.

The provision of the lease contract entered into between petitioner and respondent is appar-ently clear that unless the lessor and lessee agreed to a renewal thereof at least thirty days prior to the date of expiration, the lease shall not be renewed. The facts on record show that despite the exchange of communication, proposals end counter-proposals, between the parties regarding a renewal of the lease, they were not able to arrive at an agreement within said period, for while the lessor wanted an increased rental, the lessee, on the other hand, proposed for a reduct-ion. With this failure of an agreement, it is to be presumed that the lessee was aware that an e-jectment case against him was forthcoming. Whether or not the case filed before the Cavite Court of First Instance, just one day before the expiration of the base contract, was an anticipation to block the action for ejectment which the lessor was to take against the lessee, the fact, however, is that the lessee was not disposed to

leave the premises. At any rate, while the said case before the Court of First Instance of Cavite appears to be one for specific performance with damages, it cannot be denied that the real issue between the parties is whether or not the lessee should be allowed to continue occupying the land as lessee.

The situation is not novel to Us.

It has been settled in a number of cases^[1] that the right of a lessee to occupy land leased as against the demand of the lessor should be decided under Rule 70 (formerly Rule 72) of the Rules of Court.

There is no merit to the contention that the lessee's supposed right to a renewal of the lease contract can not be decided in the ejectment suit. In the case of *Teodoro v. Mirasol*, supra, this Court held that "if the plaintiff has any right to the extension of the lease at all, such right is a proper and legitimate issue that could be raised in the unlawful detainer case because it may be used as a defense to the action." In other words, the matter raised in the Court of First Instance of Cavite may be threshed out in the ejectment suit, in consonance with the principle prohibiting multiplicity of suits. And the mere fact that the unlawful detainer-ejectment case was filed later, would not change the situation of the foregoing ruling:

"It is to be noted that the Rules do not require as a ground for dismissal of a complaint that there is a prior pending action. They provide that there is a pending action, not a pending prior action. The fact that the unlawful detainer suit was of a later date is no bar to the dismissal of the present action" (*Teodoro, Jr. v. Mirasol*, supra.)

IN VIEW OF THE FOREGOING, let the writs issue as prayed for in the petition, and the preliminary injunction issued at the commencement of these proceedings is made permanent. Costs against Demetrio B. Encarnacion.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, and Fernando, JJ., concur.

[1] *Pue, et al. v. Gonzales* 8 Phil. 81; *Lim Si v. Lim*, 98 Phil. 856; and *Teodoro, Jr. v. Mirasol*, 99 Phil. 150.

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